



Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor

SENATE TAXATION

EXHIBIT NO. 5

DATE 3-16-07

FILE NO. SB-470

March 13, 2007

The Honorable Jim Elliott, Chair
Senate Tax Committee
State Capitol
Helena, MT 59601

Hand Delivered

Re: Question Concerning Senate Bill 470

Dear Senator Elliott:

During the Senate Tax Committee's recent executive session discussion of SB 470—the bill requiring grantor trusts to file income tax returns—Senator Story asked the Department of Revenue if we had resolved concerns the Montana CPA Society had with an earlier version of the legislation introduced in the House of Representatives. This letter replies to Senator Story's question.

The evening before the hearing on SB 470, Brenda Gilmer spent an hour discussing the bill with both Mr. George Olsen, a member of the Society, and the Society's lobbyist, Holly Franz. The next day the Society did not testify on the bill.

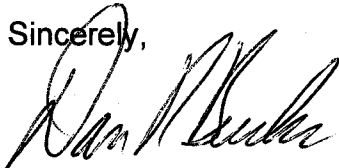
The requirement to file returns is fundamental to ensuring the equal application of the tax law to all citizens and businesses—especially for income taxes that operate on a self-assessment basis. The requirement to file returns is essential to protecting honest taxpayers from dishonest ones. Importantly, those citizens and businesses who file returns are afforded a definite statute of limitations during which their returns may be subject to audit and adjustment. Those who fail to file returns are not protected by any statute of limitations and are subject to special penalties for failure to file. This structure of general tax law is just and contributes to reducing cases of non-filing.

Grantor trusts are legal entities owned and controlled by the individuals or other parties who create them to perform certain economic activities. Just like individuals and businesses, the majority of such trusts are used for legitimate purposes. Other grantor trusts, however, are used for illegitimate purposes, including tax evasion. Under current law, with no clear filing requirement for grantor trusts, those trusts used for improper purposes are automatically granted amnesty for wrongdoing with the expiration of the statute of limitations for their owners (either five or three years).

With the filing requirement established in SB 470, grantor trusts that fail to file will no longer be given amnesty through a statute of limitations. Just as with individuals and businesses that fail to file, non-filing grantor trusts used for dishonest purposes can be held accountable at any time that their activities are discovered and will be subject to the special penalties that apply to non-filers. SB 470 is essential to providing a system of justice and accountability that distinguishes between the honest grantor trust and the dishonest trust.

We urge the Senate Tax Committee to approve SB 470 as an essential measure to protect honest citizens, businesses—and, yes, honest grantor trusts—from those dishonest grantor trusts used to evade Montana taxes.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Bucks", written in a cursive style.

Dan Bucks
Director

Cc. Members of the Senate Tax Committee